

AMENDED IN ASSEMBLY MAY 11, 2011

AMENDED IN ASSEMBLY APRIL 27, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 386**

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**Introduced by Assembly Member Galgiani**

February 14, 2011

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An act to add Section 5023.3 to the Penal Code, relating to prisoners.

### LEGISLATIVE COUNSEL'S DIGEST

AB 386, as amended, Galgiani. Prisons: telehealth systems.

Existing law, the Telemedicine Development Act of 1996, regulates the practice of telemedicine, defined as the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications, by a health care practitioner, as defined. Existing law establishes that it is the intent of the Legislature that the Department of Corrections and Rehabilitation operate in the most cost-effective and efficient manner possible when purchasing health care services for inmates.

This bill would state the Legislature's findings and declarations on the use of telehealth in the state's prisons. This bill would require the department, by January 1, 2013, to include protocols within its existing guidelines for determining when telehealth services are appropriate, and would require the department to require an operational telehealth services program at all adult institutions by January 1, 2016. The bill would require the department to schedule a patient for an evaluation with a distant physician when it is determined to be medically necessary, and would allow the department to use telehealth only when it is in the

best interest of the health and safety of the inmate patient. The bill would require the department to ensure that telehealth not be used to supplant civil service physicians and dentists.

The bill would require the department to report to the Legislature, as provided, by March 1, 2013, and every year thereafter, regarding the department's implementation of statewide telehealth services. This bill would render this reporting requirement inoperative on March 1, 2018.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) It is the intent of the Legislature to require the Department  
4 of Corrections and Rehabilitation to implement and maintain the  
5 use of telehealth in state prisons.

6 (b) Telehealth improves inmates' access to health care by  
7 enabling correctional systems to expand their provider network to  
8 include physicians located outside the immediate vicinity of  
9 prisons, particularly for inmates housed in remote areas of the state  
10 with shortages of health care.

11 (c) The department's prison telehealth program began in 1997  
12 as a pilot project for mental health inmates at Pelican Bay State  
13 Prison and was successful at improving inmates' access to mental  
14 health care. Accordingly, the department decided to expand the  
15 program to provide mental health as well as medical specialty  
16 services at other prisons. Currently, all of the state prisons are  
17 equipped to provide basic telehealth services.

18 SEC. 2. Section 5023.3 is added to the Penal Code, to read:

19 5023.3. (a) In order to maximize the benefits that come with  
20 the use of telehealth in the state's prisons, the department shall do  
21 all of the following:

22 (1) By January 1, 2013, include within the department's existing  
23 guidelines, protocols for determining when telehealth services are  
24 medically appropriate and in the best interest of the health and  
25 safety of the inmate patient.

26 (2) Require, by January 1, 2016, an operational telehealth  
27 services program at all adult institutions within the department.  
28 The program shall include all of the following:

1 (A) Specific goals and objectives for maintaining and expanding  
2 services and encounters provided by the telehealth services  
3 program, including store and forward telehealth technology.

4 (B) An information technology support infrastructure that will  
5 allow telehealth to be used at each adult prison.

6 (C) Specific guidelines for determining when and where  
7 telehealth would be the preferred delivery method for health care.

8 (D) Guidelines and protocols for appropriate use and expansion  
9 of store and forward telehealth technology in state prisons. For  
10 purposes of this section, “store and forward telehealth” means the  
11 transmission of medical information to be reviewed at a later time  
12 and at a distant site by a physician without the patient being  
13 present.

14 (3) Schedule a patient for evaluation with a distant physician  
15 via telehealth if and when it is determined that it is medically  
16 necessary.

17 (4) Utilize telehealth only when it is in the best interest of the  
18 health and safety of the inmate patient.

19 (5) Ensure that telehealth shall not be used to supplant civil  
20 service physician and dental positions.

21 (b) (1) On March 1, 2013, and each March 1 thereafter, the  
22 department shall report all of the following to the Joint Legislative  
23 Budget Committee, the Assembly Committee on Appropriations,  
24 the Assembly Committee on Budget, the Assembly Committee on  
25 Health, the Assembly Committee on Public Safety, the Senate  
26 Committee on Appropriations, the Senate Committee on Budget  
27 and Fiscal Review, the Senate Committee on Health, and the Senate  
28 Committee on Public Safety:

29 (A) The extent to which the department achieved the objectives  
30 developed pursuant to this section, as well as the most significant  
31 reasons for achieving or not achieving those objectives.

32 (B) The extent to which the department is operating a statewide  
33 telehealth services program, as set forth in this section, that  
34 provides telehealth services to every adult prison within the  
35 department, as well as the most significant reasons for achieving  
36 or not achieving that objective.

37 (C) A description of planned and implemented initiatives  
38 necessary to accomplish the next 12 months’ objectives for  
39 achieving the goals developed pursuant to this section.

1 (2) The requirement for submitting a report imposed under this  
2 subdivision is inoperative on March 1, 2018, pursuant to Section  
3 10231.5 of the Government Code.

4 (c) *As used in this section, “telehealth” is defined as the mode*  
5 *of delivering health care services and public health via information*  
6 *and communication technologies to facilitate the diagnosis,*  
7 *consultation, treatment, education, care management, and*  
8 *self-management of a patient’s health care while the patient is at*  
9 *the originating site and the health care provider is at a distant*  
10 *site. Telehealth facilitates patient self-management and caregiver*  
11 *support for patients and includes synchronous interactions and*  
12 *asynchronous store and forward transfers.*